

Wage and Hour Division, Labor

§ 780.1004

Also, the intent to exempt “transportation of the harvest crew to and from the farm” (see 107 Cong. Rec. (daily ed.) p. 4523) within a single State would not justify exemption of the transportation of workers from one State to another to engage in harvest work in the latter State. The exemption does not apply to transportation of persons on any trip, or any portion of a trip, in which the point of origin or point of destination is in another State. Subject to these limitations, however, where employees are being transported for employment in harvesting they may be picked up in any place within the State, including other farms, packing or processing establishments, factories, transportation terminals, and other places. The broad term “any point” must be interpreted in the light of the purpose of the exemption to facilitate the harvesting of fruits or vegetables. Transportation from a farm to “any point” within the same State (such as a factory or processing plant) where some other purpose than harvesting is served is not exempt.

Subpart K—Employment of Homeworkers in Making Wreaths; Exemption From Minimum Wage, Overtime Compensation, and Child Labor Provisions Under Section 13(d)

INTRODUCTORY

§ 780.1000 Scope and significance of interpretative bulletin.

Subpart A of this part 780 and this subpart K together constitute the official interpretative bulletin of the Department of Labor with respect to the meaning and application of section 13(d) of the Fair Labor Standards Act of 1938, as amended. This section provides an exemption from the minimum wage, overtime pay, and child labor provisions of the Act for certain homeworkers employed in making wreaths from evergreens and in harvesting evergreens and other forest products for use in making wreaths. Attention is directed to the fact that a limited overtime exemption for employees employed in the decoration greens industry is provided under section 7(c) of the Act (see part 526 of this

chapter). The section 7(c) exemption is not limited to homeworkers.

§ 780.1001 General explanatory statement.

Workers in rural areas sometimes engage, as a family unit, around the Christmas holidays, in gathering evergreens and making them into wreaths in their homes. Such workers, under well-settled interpretations by the Department of Labor and the courts, have been held to be employees of the firm which purchases the wreaths and furnishes the workers with wire used in making such wreaths.

REQUIREMENTS FOR EXEMPTION

§ 780.1002 Statutory requirements.

Section 13(d) of the Fair Labor Standards Act exempts from the minimum wage provisions of section 6, the overtime requirements of section 7 and the child labor restrictions of section 12:

Any homemaker engaged in the making of wreaths composed principally of natural holly, pine, cedar, or other evergreens (including the harvesting of the evergreens or other forest products used in making such wreaths).

§ 780.1003 What determines the application of the exemption.

The application of this exemption depends on the nature of the employee's work and not on the character of the employer's business. To determine whether an employee is exempt an examination should be made of the activities which that employee performs and the conditions under which he performs them. Some employees of the employer may be exempt and others may not.

§ 780.1004 General requirements.

The general requirements of the exemption are that:

- (a) The employee must be a homemaker;
- (b) The employee must be engaged in making wreaths as a homemaker;
- (c) The wreaths must be made principally of evergreens;
- (d) Any harvesting of the evergreens and other forest products by the